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17 Attorneys for Plaintiff
 YUGA LABS, INC.
 18

19 UNITED STATES DISTRICT COURT
 20 DISTRICT OF NEVADA
 21

22 YUGA LABS, INC.,
 23 Plaintiff and
 Counterclaim Defendant,
 24
 v.
 25 RYDER RIPPS and JEREMY CAHEN,
 26 Defendants and
 27 Counterclaim Plaintiffs.
 28

Case No.: 2:23-cv-00010-APG-NJK

**SUPPLEMENTAL DECLARATION OF
 KIMBERLY CULP IN SUPPORT OF
 PLAINTIFF YUGA LABS, INC.'S
 MOTION FOR SANCTIONS AND AN
 ORDER TO SHOW CAUSE RE
 CONTEMPT OF RYAN HICKMAN**

1 I, Kimberly Culp, declare:

2 1. I am an attorney admitted to practice in California and am an attorney with the
3 law firm of Fenwick & West LLP, counsel for Plaintiff Yuga Labs, Inc. (“Plaintiff” or “Yuga
4 Labs”) in the above-captioned matter. I make this declaration based on my own personal
5 knowledge. If called as a witness, I could testify competently to the facts set forth herein.

6 2. I submit this declaration in support of Yuga Labs’ Reply in Support of its Motion
7 for Sanctions and an Order to Show Cause re Contempt of Ryan Hickman (“Mr. Hickman”).

8 3. In September 2022, in the matter of *Yuga Labs, Inc. v. Ryder Ripps and Jeremy*
9 *Cahen*, Case No. 2:22-cv-04355-JFW-JEM (C.D. Cal.) (“*Ripps* matter”), my firm caused a
10 subpoena to be served on Mr. Hickman for documents. I am counsel of record in the *Ripps*
11 matter. Request No. 9 in that subpoena asked Mr. Hickman to produce “[d]ocuments sufficient
12 to show royalties you earned from the sale of RR/BAYC NFTs.”

13 4. On December 7, 2022, in the *Ripps* matter, I deposed Ryan Hickman regarding
14 his involvement in Mssrs. Ripps’ and Cahen’s commercialization of the infringing RR/BAYC
15 NFT. In particular, I questioned Mr. Hickman regarding his work developing the rrbayc.com
16 website, the RR/BAYC RSVP smart contract software, and the Ape Market. (Attached hereto as
17 **Exhibit A** is a true and correct copy of excerpts from that deposition.) I introduced Mr.
18 Hickman’s responses to the September 2022 subpoena as Exhibit 7 to his deposition (which were
19 themselves incomplete and served after the deadline to respond). (Attached hereto as **Exhibit B**
20 is a true and correct copy of an excerpt from Exhibit 7 to Mr. Hickman’s deposition showing his
21 response to Request No. 9 in response to the September 2022 subpoena.) In response to Request
22 No. 9 to the September subpoena, Mr. Hickman responded that although he did not earn
23 royalties, he was paid to make the rrbayc.com website and RR/BAYC RSVP smart contract
24 software. Mr. Hickman confirmed at his deposition that he was paid 15% of the proceeds of the
25 sale of the infringing RR/BAYC NFTs (net profit amounting to approximately \$191,863.70).

26 5. Following Mr. Hickman’s failure to comply with the September 2022 subpoena,
27 he engaged counsel to assist him in responding. His counsel was also representing Thomas
28 Lehman in connection with a nearly identical subpoena to the one served on Mr. Hickman.

1 Through his counsel, I gave Mr. Hickman an extension of time to respond to the September 2022
2 subpoena. As the deadline to respond was approaching, his counsel and I spoke, and Mr.
3 Hickman's counsel told me that he would be withdrawing as Mr. Hickman's counsel because
4 Mr. Hickman stopped responding to his calls and emails and, therefore, Mr. Hickman would not
5 be able to comply with the subpoena by the date we had agreed on. Mr. Hickman's counsel
6 thereafter sent me an email confirming his withdrawal as Mr. Hickman's counsel.

7 6. Therefore, in November 2022, I caused a second subpoena to be served on Mr.
8 Hickman for nearly the same documents as were sought in the September 2022 and a deposition.
9 That second subpoena is the subject of Yuga Labs' motion to compel.

10
11 I declare under penalty of perjury under the laws of the United States that the foregoing is
12 true and correct. Executed on April 19, 2023.

13
14 /s/ Kimberly Culp
Kimberly Culp

EXHIBIT LIST

| Exhibit | Document | Pages |
|----------------|---|--------------|
| A. | Excerpts from Ryan Hickman's December 7, 2022 Deposition | 24 |
| B. | Excerpt from Exhibit 7 to Hickman's deposition showing his response to Request No. 9 in response to the September 2022 subpoena | 2 |

Exhibit A

Excerpts from Ryan Hickman's December 7, 2022 Deposition

Exhibit A

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

YUGA LABS, INC.,)
)
Plaintiff,)
)
vs.) Case No.
) 2:22-cv-04355-JFW-JEM
RYDER RIPPS and JEREMY)
CAHEN,)
)
Defendants.)
_____)

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VIDEOTAPED DEPOSITION OF RYAN HICKMAN
Taken on Wednesday, December 7, 2022
By a Certified Stenographer and Legal Videographer
At 9:11 a.m.
At 9275 West Russell Road, Suite 240
Las Vegas, Nevada

Stenographically reported by:
Holly Larsen, NV CCR 680, CA CSR 12170

Page 1

1 APPEARANCES:

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11 derek.gosma@wilmerhale.com

12 The Legal Videographer:

13 SAMUEL CAMACHO

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I N D E X

| WITNESS | PAGE |
|--------------------------|----------|
| RYAN HICKMAN | |
| Examination by Ms. Culp | 10, 302 |
| Examination by Mr. Gosma | 275, 304 |

E X H I B I T S

| NUMBER | | PAGE |
|------------|-------------|------|
| Exhibit 1 | Subpoena | 19 |
| Exhibit 2 | Subpoena | 21 |
| Exhibit 3 | Email chain | 22 |
| Exhibit 4 | Email | 30 |
| Exhibit 5 | Email chain | 33 |
| Exhibit 6 | Email | 33 |
| Exhibit 7 | Email | 34 |
| Exhibit 8 | Group chat | 41 |
| Exhibit 9 | Group chat | 46 |
| Exhibit 10 | Group chat | 51 |
| Exhibit 11 | Group chat | 57 |
| Exhibit 12 | Group chat | 62 |
| Exhibit 13 | Tweet | 67 |
| Exhibit 14 | Group chat | 72 |
| Exhibit 15 | Group chat | 75 |

CONFIDENTIAL

| | | | |
|----|------------|---|-----|
| 1 | Exhibit 16 | Group chat with Letter of Authorization | 87 |
| 2 | Exhibit 17 | Group chat | 90 |
| 3 | Exhibit 18 | Group chat | 94 |
| 4 | Exhibit 19 | Group chat | 96 |
| 5 | Exhibit 20 | Group chat | 103 |
| 6 | Exhibit 21 | Group chat | 125 |
| 7 | Exhibit 22 | Group chat | 130 |
| 8 | Exhibit 23 | Group chat | 135 |
| 9 | Exhibit 24 | Group chat | 141 |
| 10 | Exhibit 25 | Etherscan | 143 |
| 11 | Exhibit 26 | Group chat | 144 |
| 12 | Exhibit 27 | Web page | 146 |
| 13 | Exhibit 28 | Web page | 149 |
| 14 | Exhibit 29 | Web page | 153 |
| 15 | Exhibit 30 | Group chat | 155 |
| 16 | Exhibit 31 | Group chat | 158 |
| 17 | Exhibit 32 | Group chat | 162 |
| 18 | Exhibit 33 | Group chat | 168 |
| 19 | Exhibit 34 | Group chat | 170 |
| 20 | Exhibit 35 | Web page | 172 |
| 21 | Exhibit 36 | Etherscan | 174 |
| 22 | Exhibit 37 | Group chat | 179 |
| 23 | Exhibit 38 | Group chat | 183 |
| 24 | Exhibit 39 | Group chat | 187 |
| 25 | | | |

CONFIDENTIAL

| | | | |
|----|------------|--|-----|
| 1 | Exhibit 40 | Group chat | 190 |
| 2 | Exhibit 41 | Group chat | 191 |
| 3 | Exhibit 42 | Group chat | 194 |
| 4 | Exhibit 43 | Tweet | 196 |
| 5 | Exhibit 44 | Group chat | 197 |
| 6 | Exhibit 45 | Tweet | 199 |
| 7 | Exhibit 46 | Tweet | 204 |
| 8 | Exhibit 47 | Group chat | 205 |
| 9 | Exhibit 48 | Group chat | 219 |
| 10 | Exhibit 49 | Group chat | 221 |
| 11 | Exhibit 50 | Group chat | 226 |
| 12 | Exhibit 51 | Group chat | 231 |
| 13 | Exhibit 52 | Group chat | 233 |
| 14 | Exhibit 53 | Group chat | 234 |
| 15 | Exhibit 54 | Group chat | 236 |
| 16 | Exhibit 55 | Group chat | 238 |
| 17 | Exhibit 56 | Group chat | 240 |
| 18 | Exhibit 57 | Group chat | 241 |
| 19 | Exhibit 58 | Group chat with Letter of Authorization | 244 |
| 20 | | | |
| 21 | Exhibit 59 | Group chat | 246 |
| 22 | Exhibit 60 | Group chat | 250 |
| 23 | Exhibit 61 | Group chat | 250 |
| 24 | Exhibit 62 | Group chat | 251 |
| 25 | Exhibit 63 | Group chat | 252 |

CONFIDENTIAL

| | | | |
|----|------------|------------|-----|
| 1 | Exhibit 64 | Group chat | 256 |
| 2 | Exhibit 65 | Group chat | 260 |
| 3 | Exhibit 66 | Group chat | 261 |
| 4 | Exhibit 67 | Group chat | 262 |
| 5 | Exhibit 68 | Group chat | 263 |
| 6 | Exhibit 69 | Group chat | 264 |
| 7 | Exhibit 70 | Group chat | 267 |
| 8 | Exhibit 71 | Group chat | 270 |
| 9 | Exhibit 72 | Etherscan | 270 |
| 10 | Exhibit 73 | Tweet | 272 |

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Page 6

CONFIDENTIAL

P R O C E E D I N G S

-oOo-

THE VIDEOGRAPHER: Good morning. We are going on the record at 9:11 a.m., December 7, 2022.

Please note that the microphones are sensitive and may pick up whispering and private conversations. Please mute your phones at this time. Audio and video recording will continue to take place unless all parties agree to go off the record.

This is Media Unit 1 of the video-recorded deposition of Ryan Hickman taken by counsel for plaintiff in the matter of Yuga Labs, Inc., versus Ryder Ripps and Jeremy Cahen, filed in the United States District Court of the Central District of California, Case Number 2:22-CV-04355-JFW-JEM. The location of the deposition is 9275 West Russell Road, Suite 240, Las Vegas, Nevada.

My name is Samuel Camacho representing Veritext, and I am the videographer. The court reporter is Holly Larsen from the firm Veritext.

I am not authorized to administer an oath, I am not related to any party in this action,

Page 7

1 nor am I financially interested in the outcome. If
2 there are any objections to proceeding, please state
3 them at the time of your appearance.

4 Counsel and all present, including
5 remotely, will now state their appearances and
6 affiliations for the record, beginning with the
7 noticing attorney.

8 MS. CULP: Good morning. I'm Kimberly
9 Culp with the law firm Fenwick & West representing
10 Yuga Labs.

11 MR. FARES: Good morning. I'm Anthony
12 Fares with the law firm Fenwick & West representing
13 Yuga Labs.

14 MR. GOSMA: This is Derek Gosma of
15 WilmerHale representing the Defendants, Mr. Ripps
16 and Mr. Cahen.

17 THE VIDEOGRAPHER: Will the court
18 reporter please swear in the witness and counsel may
19 proceed.

20 Whereupon,

21 RYAN HICKMAN,
22 having been first duly sworn to testify to the
23 truth, was examined, and testified as follows:

24 ///

25 ///

1 with a, I believe, PDF of the information that I
2 collected.

3 Q. We will look at that document in a
4 moment, but let me try a different question.

5 Does Exhibit 6, if you look at the dates
6 and compare them between Exhibit 5 and Exhibit 6,
7 refresh your recollection that by October 12th you
8 were aware that Fenwick & West had taken the
9 position that the documents you had already provided
10 didn't sufficiently comply with the subpoena?

11 A. Say that again, please.

12 MS. CULP: Madam Court Reporter, can you
13 read back the question.

14 (The question was read.)

15 THE WITNESS: I see. So I haven't seen
16 these emails or read these emails. So the -- yeah,
17 I haven't -- the emails that I didn't respond to are
18 emails that I have never read before.

19 BY MS. CULP:

20 Q. You received but did not open in your
21 inbox; correct?

22 A. Correct.

23 MS. CULP: Next in order is Exhibit 7.

24 (Exhibit 7 marked.)

25 ///

1 BY MS. CULP:

2 Q. You had just mentioned an email that you
3 sent with your documents. Is that Exhibit 7 that
4 we've just put in front of you?

5 A. Correct.

6 Q. And that was the production that you
7 made in response to the September subpoena which is
8 Exhibit 2?

9 A. Correct.

10 Q. I want to go back to Exhibit 1. I know
11 you're starting to accumulate the pile I warned you
12 of. If you can find Exhibit 1 and get that in front
13 of you.

14 A. Yes, I have it in front of me.

15 Q. Do you have Exhibit 1 in front of you?

16 A. Yes.

17 Q. Thank you. Can you please go to
18 Attachment A. And the pages in Attachment A are
19 numbered. I'd like you to turn to numbered page 6
20 of Attachment A to Exhibit 1. Numbered page 6.

21 A. Page 6.

22 Q. Are you there?

23 A. Yes, I am.

24 Q. Do you see Document Request Number 1?

25 A. Yes.

1 Q. What do you understand Document Request
2 Number 1 to be seeking from you?

3 A. Some way for me to export information
4 from Discord and provide it.

5 Q. Were there communications on Discord
6 that relate to RR/BAYC NFTs, BAYC NFTs, or Yuga
7 Labs?

8 A. Yes.

9 Q. I guess let's establish just some
10 definitions. I think we're communicating with each
11 other, but let's just make sure.

12 When I say "RR/BAYC NFTs," what do you
13 understand?

14 A. I understand the specific contract
15 address on the Ethereum blockchain for that project.

16 Q. And that project was called RR/BAYC NFT
17 to sort of the public if you will?

18 A. Correct.

19 Q. And if I say "BAYC NFTs," what do those
20 refer to?

21 A. A specific contract address on the
22 Ethereum blockchain.

23 Q. And those are Bored Ape Yacht Club NFTs
24 that were created by my client, Yuga Labs?

25 A. Correct.

1 Q. So you understand BAYC, the letters, to
2 be the acronym for Bored Ape Yacht Club?

3 A. Correct.

4 Q. And do you know who Yuga Labs is?

5 A. Yes, I do.

6 Q. Okay. And you understand Yuga Labs to
7 be the business behind Bored Ape Yacht Club?

8 A. Yes, I understand that.

9 Q. So going back to Request Number 1 that's
10 on page 6 of Attachment A to Exhibit 1, there were
11 Discord communications that you were a party to that
12 related to, you know, one or all of the things that
13 are listed here?

14 A. Yes.

15 Q. Tell me what those Discord
16 communications were in terms of the channel, if the
17 channel had a name, or to whom you might have been
18 communicating with if it was a one-to-one
19 communication.

20 A. There were communications with the
21 creator, the development team, and -- so myself,
22 Tom, Jeremy, and Ryder had a channel. I believe it
23 had a name. I'm not certain if it had a name, but
24 it was a group chat.

25 Then myself and Tom had a group chat, a

1 Q. The foundation contract for the
2 RR/BAYC NFT?

3 A. Correct.

4 Q. You can turn back to what you had
5 produced to us that's Exhibit 7.

6 A. Bear with me. Yes.

7 Q. It's your response to Document Request
8 Number 9, if you can turn to that one. We're on the
9 same page. So Exhibit 7, and then Document
10 Request 9. It looks like you were at 6.

11 Do you see Document Request 9?

12 A. Yes.

13 Q. You write, "I earned zero royalties."

14 Can you help me unpack how you're using
15 "royalties" in your response here versus how
16 Mr. Cahen is using "royalties" in Exhibit 21?

17 Are the terms being used the same way,
18 or is there different language being used by you in
19 the one document and Mr. Cahen in the other?

20 A. I don't specifically know what
21 "royalties" mean here. It says "Ryder's share of
22 royalties." The project is zero percent royalties.
23 I'm only making a guess that it's referring to the
24 foundation contract that forces the royalties.

25 In this reference I'm specifically

1 stating that I'm a developer. I make software. I
2 charge to make software. I have a record, a
3 history, of charging to make the software. My
4 financial arrangement for this whole thing is about
5 as a software developer being compensated for making
6 software.

7 Q. Your records show your sort of net
8 payment was 142.35 ETH?

9 A. Yes.

10 Q. Do you recall what that translated to
11 into dollars when you made the withdrawals?

12 A. I never actually withdrew those funds.
13 That wallet was compromised.

14 Q. Can you explain that? What do you mean,
15 "that wallet was compromised"?

16 A. I was developing something else, and I
17 had a lot going on. I installed a package. It's a
18 support software. And the package had a rat in it.
19 A rat is a type of -- it's not a virus, but it's
20 hidden malicious code that took the private keys
21 from the deployment and took this and a whole lot
22 more.

23 Q. The ETH out of your wallet?

24 A. Out of that wallet, yes.

25 Q. So the 142.35 ETH was transferred to you

1 and then stolen by somebody from that wallet?

2 A. Correct.

3 Q. Understood.

4 (Exhibit 22 marked.)

5 BY MS. CULP:

6 Q. Exhibit 22 has been placed in front of
7 you. At the middle of 22 you'll see that Mr. Lehman
8 writes on the 20th of May at 7:09 a.m., "There's the
9 foundation royalties, though, when this sells on
10 their marketplace."

11 A. I see.

12 Q. Is that consistent with your testimony
13 that there were royalties built into the Foundation
14 contract for the RR/BAYC NFTs?

15 A. There's not royalties in the Foundation
16 NFT ERC 721 contract.

17 The Foundations are on -- the royalties
18 are automatically enforced on Foundation's
19 marketplace, which is a separate thing. And people
20 who get the NFT choose where they want to sell it on
21 a secondary market. It could include Foundation.
22 So when it sold on Foundation, it produces a
23 royalty.

24 Q. Understood.

25 A. But I don't know if that's what he's

1 order, and the protective order affords a third
2 party the right to designate their documents as
3 confidential. My suggestion is we take this offline
4 and off the record. We'll need to meet and confer
5 with that third party as to whether or not they will
6 de-designate their documents. Then let's have that
7 broader conversation, because it impacts the
8 designation of this deposition.

9 MR. GOSMA: Understood. With that, I
10 have nothing further. From my perspective, we can
11 go off the record.

12 MS. CULP: From mine as well.

13 THE WITNESS: I had a quick question.

14 MR. GOSMA: Sure. We can answer it on
15 the record, I suppose.

16 THE WITNESS: Am I allowed to have a
17 copy of this?

18 MR. GOSMA: Yes, you will be able to get
19 a copy of it.

20 THE WITNESS: Thank you.

21 THE VIDEOGRAPHER: And this concludes
22 the deposition. We're going off the record at
23 6:27 p.m., and this concludes today's testimony
24 given by Ryan Hickman. The total number of media
25 used was eight and will be retained by Veritext.

CONFIDENTIAL

1 Thank you.

2 (Proceedings concluded at 6:27 p.m.)

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CERTIFICATE OF REPORTER

STATE OF NEVADA)
)SS

COUNTY OF CLARK)

I, Holly Larsen, a duly certified court reporter licensed in and for the State of Nevada, do hereby certify:

That I reported the taking of the deposition of the witness, Ryan Hickman, at the time and place aforesaid;

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That I thereafter transcribed my shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true, and accurate record of testimony provided by the witness at said time to the best of my ability.

I further certify (1) that I am not a relative or employee of counsel of any of the parties; nor a relative or employee of the parties involved in said action; nor a person financially interested in the action; nor do I have any other relationship with any of the parties or with counsel of any of the parties involved in the action that may reasonably cause my impartiality to be questioned; and (2) that transcript review pursuant to FRCP 30(e) was requested.

IN WITNESS HEREOF, I have hereunto set my hand in the County of Clark, State of Nevada, this 21st day of December, 2022.



HOLLY LARSEN, CCR NO. 680

ERRATA SHEET

I declare under penalty of perjury that I have read
the foregoing _____ pages of my testimony, taken on
_____ (date) at _____ (city),
_____ (state), and that the same is a true
record of the testimony given by me at the time and
place herein above set forth, with the following
exceptions:

| Page | Line | Should read: | Reason for change: |
|-------|-------|--------------|--------------------|
| _____ | _____ | _____ | _____ |
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Page 311

RYAN HICKMAN

260 Sidewinder Street, Henderson, NV 89012

DECEMBER 21, 2022

RE: YUGA LABS, INC. v. RYDER RIPPS

DECEMBER 7, 2022, RYAN HICKMAN, JOB NO. 5597850

The above-referenced transcript has been completed by Veritext Legal Solutions and review of the transcript is being handled as follows:

___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext to schedule a time to review the original transcript at a Veritext office.

___ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF Transcript - The witness should review the transcript and make any necessary corrections on the errata pages included below, notating the page and line number of the corrections. The witness should then sign and date the errata and penalty of perjury pages and return the completed pages to all appearing counsel within the period of time determined at the deposition or provided by the Code of Civil Procedure.

___ Waiving the CA Code of Civil Procedure per Stipulation of Counsel - Original transcript to be released for signature as determined at the deposition.

___ Signature Waived - Reading & Signature was waived at the time of the deposition.

Page 312

1 _X_Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF

2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.

9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

1 YUGA LABS, INC. v. RYDER RIPPS

2 RYAN HICKMAN, JOB NO. 5597850

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

5 _____

6 REASON_____

7 PAGE_____ LINE_____ CHANGE_____

8 _____

9 REASON_____

10 PAGE_____ LINE_____ CHANGE_____

11 _____

12 REASON_____

13 PAGE_____ LINE_____ CHANGE_____

14 _____

15 REASON_____

16 PAGE_____ LINE_____ CHANGE_____

17 _____

18 REASON_____

19 PAGE_____ LINE_____ CHANGE_____

20 _____

21 REASON_____

22 _____

23 _____

24 WITNESS _____ Date _____

25 _____

Exhibit B

Excerpt from Exhibit 7 to Hickman's deposition showing his response to Request No. 9 in response to the September 2022 subpoena

Exhibit B

Document Request 9

I earned zero royalties. There are no documents associated to any royalties. I was compensated for the development of a token reservation system. The gross total 158.28 ETH:

| Sender | Amount | Latest Date |
|---|------------------------|-------------|
| 0xee969b688442c2d58... | 158.28 ETH \$218144.53 | 2022-06-25 |
| Of which 15.93 ETH was returned for gas cost: | | |
| 0x592814ff14e030b51f6... | 15.93 ETH \$26280.83 | 2022-07-27 |

Net to build reservation system: 142.35 ETH